

<p>NICOLE JEMERY,</p>)	
<p style="padding-left: 40px;">Plaintiff</p>)	
<p style="text-align: center;">v.</p>)	Case No.:
<p>TRANSWORLD SYSTEMS, INC.,</p>)	COMPLAINT AND DEMAND FOR
<p style="padding-left: 40px;">Defendant</p>)	JURY TRIAL
)	(Unlawful Debt Collection Practices)

NICOLE JEMERY (“Plaintiff”), by her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against TRANSWORLD SYSTEMS, INC. (“Defendant”):

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

1 an AT&T cellular telephone account.

2 12. The alleged debts at issue arose out of transactions, which were
3 primarily for personal, family, or household purposes.
4

5 13. Beginning in or around October 2013, and continuing through
6 November 2013, Defendant engaged in debt collection activities seeking to collect
7 alleged debts from Plaintiff.
8

9 14. In its attempts to collect a debt, Defendant's collectors repeatedly and
10 continuously contacted Plaintiff on her cellular and work telephones.

11 15. Defendant called Plaintiff, on average, one (1) to two (2) times a day,
12 and at various times, in its attempts to collect a debt.
13

14 16. It was annoying, aggravating, and harassing to Plaintiff to be called
15 repeatedly on both her cellular and work telephones.

16 17. On numerous occasions, Plaintiff instructed Defendant's collectors to
17 stop calling her on her cellular and work telephones.
18

19 18. Defendant, however, never updated its records to stop calls to
20 Plaintiff's cellular and work telephones.

21 19. Rather, Defendant persisted in calling Plaintiff on her cellular and
22 work telephones in its attempts to collect debts, despite knowing its calls were
23 unwanted.
24

25 20. Further, on at least one occasion, Plaintiff informed Defendant that

1 she refused to pay the debts.

2 21. Again, Defendant did not update its records to stop the collection
3 calls to Plaintiff; rather, it continued to call her – knowing that she refused to pay
4 the debts, showing that its intent in calling her continuously and repeatedly was to
5 harass, abuse, and annoy Plaintiff.
6

7 22. Also, in its communications with Plaintiff, Defendant threatened to
8 get a lien on her home and take her business away if she failed to pay the alleged
9 debts.
10

11 23. At the time Defendant threatened to get a lien and take Plaintiff's
12 business, it did not intend to take the actions it threatened and legally could not
13 take the threatened actions.
14

15 24. Defendant's threat caused Plaintiff anxiety.

16 25. To date, Defendant has not pursued legal action against Plaintiff.

17 26. Lastly, within five (5) days of its initial communication with Plaintiff,
18 Defendant failed to send Plaintiff written notice setting forth her rights to dispute
19 the debt(s) and/or seek verification of the debt(s), as well as to request information
20 about the alleged creditor.
21

22 27. To date, Plaintiff has not received any written correspondence from
23 Defendant.
24

25 28. Defendant's actions as described herein were made with the intent to

1 harass, upset, deceive, and coerce payment from Plaintiff.

2 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**
3 **ACT**

4 29. In its actions to collect a disputed debt, Defendant violated the
5 FDCPA in the following ways:

6 **COUNT I**

- 7
- 8 a. A debt collector violates § 1692d of the FDCPA by engaging in
9 conduct the natural consequence of which is to harass, oppress,
10 or abuse any person in connection with the collection of a debt.
11
- 12 b. A debt collector violates § 1692d(5) of the FDCPA by causing
13 a telephone to ring or engaging any person in telephone
14 conversation repeatedly or continuously with intent to annoy,
15 abuse, or harass any person at the called number.
16
- 17 c. Here, Defendant violated §§ 1692d and 1692d(5) of the
18 FDCPA when it repeatedly called Plaintiff on her work and
19 cellular telephones, on average, one (1) to two (2) times a day,
20 with the intent to annoy, abuse and harass her; and, by
21 continuing to call Plaintiff after being told that she refuses to
22 pay the debt and to stop calling her.
23

24 **COUNT II**

- 25 a. A debt collector violates § 1692e of the FDPCA by using false,

1 intend to take those actions and did not have the legal authority
2 to take the actions it threatened.

3
4 **COUNT III**

- 5 a. A debt collector violates § 1692f of the FDCPA by using unfair
6 or unconscionable means to collect or attempt to collect any
7 debt.
8
9 b. Here, Defendant violated § 1692f of the FDCPA failing to
10 update its records to stop the calls to Plaintiff's cellular and
11 business telephones after being told to stop calling her as well
12 as that she refused to pay the alleged debt.
13

14 **COUNT IV**

- 15 a. A debt collector violates §1692g(a) of the FDCPA by failing to
16 send to the consumer, within five days after its initial
17 communication with a consumer in connection with the
18 collection of a debt, a written notice containing: (1) the amount
19 of the debt; (2) the name of the creditor to whom the debt is
20 owed; (3) a statement that unless the consumer, within thirty
21 days after receipt of the notice, disputes the validity of the debt,
22 or any portion thereof, the debt will be assumed to be valid by
23 the debt collector; (4) a statement that if the consumer notifies
24
25

the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

b. Here, Defendant violated §1692g of the FDCPA by failing to send written notification, within five (5) days after its initial communication with Plaintiff, advising Plaintiff of her rights to dispute the debt or request verification of the debt or providing her with the name of the original creditor and the amount of the debt.

WHEREFORE, Plaintiff, NICOLE JEMERY, respectfully prays for a judgment as follows:

a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);

- 1 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
2 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
3
4 c. All reasonable attorneys' fees, witness fees, court costs and
5 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
6 § 1693k(a)(3); and
7
8 d. Any other relief deemed appropriate by this Honorable Court.

9
10 **DEMAND FOR JURY TRIAL**

11 PLEASE TAKE NOTICE that Plaintiff, NICOLE JEMERY, demands a
12 jury trial in this case.
13

14
15 RESPECTFULLY SUBMITTED,

16 DATE: August 19, 2014

17 KIMMEL & SILVERMAN, P.C.

18 By: /s/ Craig Thor Kimmel
19 CRAIG THOR KIMMEL
20 BBO# 662924
21 Kimmel & Silverman, P.C.
22 30 E. Butler Pike
23 Ambler, PA 19002
24 Phone: (215) 540-8888
25 Fax: (877) 788-2864
 Email: kimmel@creditlaw.com